

FILED 08 APR 08 12:12USDC-ORM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DAVID GREENE,

Case Number 08-3020-CL

Plaintiff,

v.

REPORT AND RECOMMENDATION

JP MORGAN CHASE,

Defendant.

CLARKE, Magistrate Judge.

On March 3, 2008, the court ordered plaintiff to show cause in writing by April 2, 2008 why this case should not be remanded to state court. The court explained that 28 U.S.C. § 1446 allows only defendants to remove actions from state court, not plaintiffs and that section 1446 also requires the defendants to not only file a notice of removal "containing a short and plain statement of the grounds for removal", but defendants must also provide the court with "a copy of all process, pleadings, and orders served upon" the parties in the state court action. Plaintiff has not complied with these requirements. The court attached a copy of section 1446 to the

order. The court also instructed plaintiff that failure to comply with this order may result in remand of this case to state court.

Plaintiff failed to respond to the court's order. Therefore, it is recommended that this case be remanded to state court as plaintiff failed to comply with the court's order, the court cannot determine if there is a basis for jurisdiction, and the court cannot determine the posture of the state court proceedings.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. Objections to this Report and Recommendation, if any, are due on April 22, 2008. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 8 day of April 2008.

Mark D. Clarke
United States Magistrate Judge